

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of D.M.C., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHAEL SUTHERLAND, a/k/a MICHAEL
CONNELLY,

Respondent-Appellant,

and

JESSICA FRANCES CARLSON,

Respondent.

UNPUBLISHED

May 27, 2003

No. 242221

Wayne Circuit Court

Family Division

LC No. 01-396215

Before: Jansen, P.J. and Kelly and Fort Hood, JJ.

MEMORANDUM.

Respondent Sutherland appeals as of right from a circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g) and (h). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination had been proved by clear and convincing evidence. *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). At the time the child entered foster care, respondent had served at least a year on a four-to-fifteen-year prison sentence. At the time of the termination hearing, he was still incarcerated and would not complete his sentence for several years. Although respondent was eligible for parole in little more than a year, there was no evidence that his early release was assured or even likely. Further, the trial court did not clearly err in its determination that the evidence, on the whole record, did not show that termination was clearly not in the child's best interests. *In re Trejo Minors*, 462 Mich 341, 354, 356-357; 612 NW2d 407 (2000); MCL 712A.19b(5). Therefore, the trial court did not clearly err in terminating respondent's parental rights to the child. *Trejo, supra* at 356-357.

Affirmed.

/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood